



## WISCONSIN SUPREME COURT CALENDAR

December 6, 2002

1:45 p.m.

01-3063-CR      State v. Waylon Picotte

*This is a certification from the Wisconsin Court of Appeals, District III (headquartered in Wausau). This means that the Court of Appeals, rather than issuing its own ruling, asked the Wisconsin Supreme Court to take the case directly. The Court of Appeals certifies cases that cannot be decided by applying current Wisconsin law. The Supreme Court is the state's law-developing court while the Court of Appeals is responsible for correcting errors that occur in the trial court. **This case originated in Brown County Circuit Court, Judge William C. Griesbach presiding.***

In this case, the Supreme Court will decide whether judges have the power to abrogate (nullify) the year-and-a-day rule and, if so, whether the judiciary should use this power.

The year-and-a-day rule was established about 800 years ago in English courts and says that an injury is presumed not to have caused a death if the injury was inflicted more than 366 days before the death. The State argues that the rule no longer makes sense given advances in medical science that have made it possible to prolong life after an injury and to pinpoint the cause of death.

Here is the background: Waylon Picotte beat up John Jackson in a fight that left Jackson comatose. More than a year and a day after the incident, Jackson died. Picotte was charged with first-degree reckless homicide, convicted, and sent to prison. He filed a postconviction motion arguing that his conviction violated the year-and-a-day rule, which is generally recognized as applicable in this country although no Wisconsin case has directly addressed its applicability since 1841.

The Court of Appeals, as noted above, asked the Supreme Court to take this case directly. The Supreme Court will decide whether the year-and-a-day rule should still apply.